

EXHIBIT E

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10 Mitchell International, Inc.

11 UNITED STATES DISTRICT COURT
12 SOUTHERN DISTRICT OF CALIFORNIA

13 AUDATEX NORTH AMERICA,
14 INC.,

15 Plaintiff,

16 vs.

17 MITCHELL INTERNATIONAL,
INC.,

18 Defendant.

Case No. 3:13-cv-01523-BEN-BLM

JURY TRIAL DEMANDED

**DEFENDANT MITCHELL
INTERNATIONAL, INC.'S SECOND
SUPPLEMENTAL RESPONSE TO
PLAINTIFF AUDATEX NORTH
AMERICA, INC.'S FIRST SET OF
INTERROGATORIES (NO. 15)**

PROPOUNDING PARTY: Plaintiff Audatex North America, Inc.

RESPONDING PARTY: Defendant Mitchell International, Inc.

SET NO.: One (1)

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Mitchell International, Inc. (“Mitchell” or “Defendant”) hereby serves these Second Supplemental Objections and Responses to Plaintiff Audatex North America, Inc.’s (“Audatex” or “Plaintiff”) First Set of Interrogatories (Nos. 15).

Mitchell incorporates by reference the applicable General and Specific Objections set forth in its Objections and Responses to Plaintiff’s First Set of Interrogatories.

OBJECTIONS AND RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 1:

Identify and describe in detail documents and other evidence, including the identity of the person or persons with the best knowledge thereof, sufficient to show monthly, quarterly and annual sales of the Mitchell accused products and services, including (a) the number of units sold in the United States, net of product return; (b) the gross revenue from those sales; (c) the gross profit from the sales of the accused products; (d) the net operating profit from those sales; and (e) the category and amount of deduction required to reconcile total revenue and net profit and net operating profit.

RESPONSE TO INTERROGATORY NO. 1:

Mitchell objects to this Interrogatory as vague and ambiguous. Specifically, and without limitation, Mitchell objects to the terms “units,” “net of product return,” “gross revenue,” “gross profit,” “net operating profit,” and “category and amount of deduction required to reconcile total revenue and net profit and net operating profit” as vague and ambiguous. Mitchell also objects to this Interrogatory on the grounds that it is overbroad and unduly burdensome.

1 Specifically, and without limitation, Defendant objects to this Interrogatory as
2 overbroad and unduly burdensome extent it is unlimited in time, seeks documents
3 regarding financial information that has no relationship to the claims or defenses in
4 this litigation, and seeks information and/or documents not created or kept in the
5 ordinary course of business. Mitchell also objects to this Interrogatory to the extent
6 that it purports to be a single Interrogatory, but contains multiple subparts. Mitchell
7 further objects to this Interrogatory as overbroad and unduly burdensome to the
8 extent it requires Mitchell to “describe in detail” any documents or other evidence,
9 as the documents speak for themselves. Mitchell also objects to the term “accused
10 products and services” as vague, ambiguous, overbroad, unduly burdensome, and
11 not reasonably calculated to lead to the discovery of admissible evidence to the
12 extent that it requires construction of claim terms, or encompasses functionality not
13 disclosed in Audatex’s Complaint or Infringement Contentions and to the extent it
14 purports to include any products, services, or instrumentalities not identified in
15 Audatex’s Complaint or Infringement Contentions.

16 Subject to these objections and the General Objections set forth above,
17 Mitchell responds as follows. Pursuant to Fed. R. Civ. P. 33(d), Mitchell
18 designates MITCHELL00015312–15313, which lists revenue for the
19 instrumentalities accused of infringement.

20 Mitchell further identifies Jamison Day as the individual most
21 knowledgeable regarding financial data relating to sales of the accused WorkCenter
22 and UltraMate products.
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1 Dated: May 2, 2014

MORGAN, LEWIS & BOCKIUS LLP

2
3 By s/Mario Moore
4 Mario Moore

5 Attorneys for Defendant
6 MITCHELL INTERNATIONAL,
7 INC.
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CERTIFICATE OF SERVICE

Audatex North America, Inc. v. Mitchell International, Inc.
 USDC – Southern District, Case No. 3:13-cv-01523-BEN-BLM

I am a citizen of the United States, a resident of the State of California and employed in Orange County, California. I am over the age of eighteen years and not a party to the within entitled action. My business address is 5 Park Plaza, Suite 1750, Irvine, CA 92614.

On May 2, 2014, I served a copy of the within document(s):

**DEFENDANT MITCHELL INTERNATIONAL, INC.'S
 SECOND SUPPLEMENTAL RESPONSE TO PLAINTIFF AUDATEX
 NORTH AMERICA, INC.'S FIRST SET OF INTERROGATORIES (NO. 15)**

- ☐ **BY FAX:** by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- ☐ **BY MAIL:** by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Irvine, California addressed as set forth below. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
- ☐ **BY OVERNIGHT MAIL:** by placing the document(s) listed above in a sealed **FEDERAL EXPRESS** envelope, following ordinary business practices for collection and processing of correspondence with said overnight mail service, and said envelope(s) will be deposited with said overnight mail service on said date in the ordinary course of business.
- ☐ **BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED:** by placing true copy(ies) thereof in sealed envelope(s) with Certified Mail, Return Receipt Requested, postage thereon full prepaid and by causing such envelope(s) to be deposited in the mail at 5 Park Plaza, Suite 1750, Irvine, California 92614.
- ☒ **BY ELECTRONIC SERVICE:** the parties listed below were served electronically with the document(s) listed above by e-mailed PDF files on May 2, 2014. The transmission was reported as complete and without error. My electronic notification address is 5 Park Plaza, Suite 1750, Irvine, California 92614. My e-mail address is mario.moore@morganlewis.com.
- ☐ **BY E-FILE:** I caused such documents to be transmitted by e-file with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to the following:

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IRELL & MANELLA LLP Morgan Chu (70446) mchu@irell.com 1800 Avenue of the Stars Los Angeles, CA 90067 Telephone: (310) 277-1010 Facsimile: (310) 203-7199	Plaintiff Audatex North America, Inc.	E-mail
David C. McPhie (231520) dmcphie@irell.com David B. Clark (275204) dclark@irell.com 840 Newport Center Drive, Suite 400 Newport Beach, CA 92660 Telephone: (949) 760-0991 Facsimile: (949) 760-5200	Plaintiff Audatex North America, Inc.	E-mail

Executed on May 2, 2014, at Irvine, California.

I declare under penalty of perjury under the laws of the State of California that I am a member of the bar of this Court and that the above is true and correct.

s/ Mario Moore
Mario Moore